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S.B. CIVIL MISC. APPEAL NO.289/2005.
(Smt. Asha & Anr. Vs. Jagdish & Ors.)

Date of Order :: 12th February 2007.

HON'BLE MR. JUSTICE DINESH MAHESHWARI

Mr. Rajendra Charan, for the appellants.

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The Tribunal has proceeded to award compensation in the sum of Rs.1,25,000/- to the parents of the ten years old vehicular accident victim Bittu while allowing Rs.1,00,000/- towards pecuniary loss and Rs.20,000/- towards non-pecuniary loss and Rs. 5,000/- towards funeral expenses.

This appeal against the award dated 25.02.2004 was initially submitted by the father and mother of the victim but before the appeal was taken up for consideration, the mother of the victim expired and her legal representatives, daughters, have been substituted as appellants in her place apart from her husband who is already on record as appellant No.2.

It has been strenuously contended on behalf of the appellants by the learned counsel Mr. Rajendra Charan seeking enhancement over the amount of compensation that the Tribunal has been in error in allowing a meagre amount in lump-sum towards compensation and without quantifying the same on relevant heads. Learned counsel has also referred to a decision of this Court in S.C. Mittal & Ors. Vs. R.S.R.T.C. & Ors. : 2005 (5) RDD 1449.

True it is that the amount awarded by the Tribunal in the present case stands wee bit on the lower side and it would have been proper for the Tribunal to have considered quantification of compensation on relevant principles. However, the peculiar fact of this case remains that the mother of the victim who stated that she had two daughters and that there was no likelihood of her begetting any other child and higher compensation was claimed on that count, has unfortunately expired after passing of the award but before this appeal for enhancement was taken up for admission.

In the overall facts and circumstances of the case, though the amount awarded by the Tribunal in the sum of Rs.1,25,000/- stands on the lower side but cannot be said to be so grossly inadequate as to be considered for interference in appeal now at the instance of the father and sisters of the victim; and there appears no scope for enhancement at the instance of the appellants and, therefore, the appeal does not merit admission.

The decision relied upon by the learned counsel for the appellants obviously rules out its applicability for the peculiar fact situation of the present case.

The appeal fails and is, therefore, dismissed summarily.

(DINESH MAHESHWARI), J.

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